In the High Court of Punjab and Haryana, Chandigarh.

C.W.P. No.19794 of 2006

Date of Decision: 06.09.2007

Veena Kumari

…Petitioner.

Versus

State of Punjab and Others.

…Respondents.

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr.S.K.Arora, Advocate
for the petitioner.

Mr.Arvind Mittal, Addl. AG Punjab
for the respondents.

JUDGMENT

RAJESH BINDAL, J.

The case was fixed for consideration of interim order passed by this Court on December 14, 2006, whereby recovery of amount already paid to the petitioner was stayed.

Learned counsel for the parties submit that the issues raised in the present petition are squarely covered by the judgment of this Court in **Harnam Singh v. State of Punjab and others** **C.W.P. No.17571 of 2004 decided on 30.7.2007,** accordingly, even the main writ petition can be taken up and disposed of finally.

The challenge in the present writ petition is to memo letter dated December 6, 2006 (Annexure P-5), whereby sum of Rs.41,601/- is sought to

be recovered from the petitioner on account of alleged excess payment due to wrong fixation of pay. Learned counsel for the petitioner submitted that the petitioner did not have any role to play in wrong fixation of her pay by the respondents and the respondents themselves committed error in fixing the pay for which petitioner cannot be made to suffer. In the absence of any fraud or misrepresentation attributable to the petitioner the amount already paid to the petitioner cannot be recovered as she was not at fault at all and it will be too harsh on her.

The petitioner referred to and relied upon the judge of Hon'ble the Supreme Court in **Sahib Ram v. State of Haryana and Others 1995(1) S.C.T. 668**. It is not denied that the wrong fixation of pay was not on account of any misrepresentation and fraud on the part of the petitioner, whereas that if so in terms of judgment of Hon'ble the Supreme Court and the views expressed by this Court following the same, the claim made by the petitioner deserves to be accepted. Accordingly, the prayer made by the petitioner is accepted and the impugned demand notice dated December 6, 2006 (Annexure P-5) is quashed.

The writ petition is disposed of in the manner as stated above.

(Rajesh Bindal)
Judge

September 06, 2007
"DK"